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06 UNITED STATES DISTRICT COURT  
07 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

08 UNITED STATES OF AMERICA, ) CASE NO. CR01-393-RSM  
09 Plaintiff, )  
10 v. ) SUMMARY REPORT OF U.S.  
11 JOSEPH IRVING, ) MAGISTRATE JUDGE AS TO  
12 Defendant. ) ALLEGED VIOLATIONS  
OF SUPERVISED RELEASE  
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14 An initial hearing on supervised release revocation in this case was scheduled before me  
15 on July 17, 2007. The United States was represented by AUSA Andrew Friedman and the  
16 defendant by Timothy McGarry. The proceedings were digitally recorded.

17 Defendant had been sentenced on or about May 1, 2002 by the Honorable Barbara J.  
18 Rothstein on a charge of Bank Fraud, and sentenced to 41 months custody followed by 5 years  
19 of supervised release, and assessed a fine of \$60,784.20 in restitution. (Dkts. 25 and 26)

20 The conditions of supervised release included the standard conditions plus the requirements  
21 that defendant be prohibited from possessing any firearms, submit to search, mandatory drug  
22 testing, abstain from alcohol, disclose all assets and liabilities, obtain no new credit, prohibition

01 on self-employment without prior approval of the Probation Officer and prohibition on possessing  
02 identification documents in any other name. (Dkt. 26)

03 On June 30, 2005, Probation Officer Michael J. Larson advised the Court that defendant  
04 was in noncompliance with the terms of his probation, specifically failing to make restitution  
05 payments for the months of October 2004 through May 2005. (Dkt. 38) Defendant acknowledged  
06 his failure to make restitution payments as required and no additional action was taken at that  
07 time.

08 In an application dated August 30, 2006 (Dkt. 45 ), U.S. Probation Officer Michael Larson  
09 alleged the following violations of the conditions of supervised release:

10 1. Failing to make restitution payments as directed by the probation office for the  
11 months of October 2005, November 2005, April 2006, May 2006, June 2006, July 2006, and  
12 August 2006, in violation of the special condition requiring any unpaid restitution balance be paid  
13 during the period of supervision;

14 2. Failing to submit a written report within the first five days of each month for March  
15 2006, April 2006, May 2006, June 2006, and July 2006, in violation of standard condition No. 2;

16 3. Committing the crime of Unlawful Imprisonment on or about August 23, 2006, in  
17 violation of Section 9A.40.040 of the Revised Code of Washington and the general condition  
18 requiring he not commit another federal, state, or local crime; and

19 4. Committing the crime of Assault in the Fourth Degree on or about August 23,  
20 2006, in violation of Section 9A.36.041 of the Revised Code of Washington and general condition  
21 requiring he not commit another federal, state, or local crime.

22 As a result of this Petition, the Honorable James L. Robart revoked defendant's supervised release

and issued a warrant for defendant's arrest. (Dkt. 45)

On or about June 7, 2007, defendant was arrested. (Dkt. 49) A detention hearing was held that day before the Honorable James P. Donohue and defendant was remanded to custody pending an evidentiary hearing before the undersigned.

In a supplemental application filed June 15, 2007, Probation Officer Larson alleged two additional violations of supervised release:

5. Conviction of the crime of Harassment-Domestic Violence in King County Superior Court, Kent, Washington, on or about May 22, 2007, in violation of Section 9A.46.020 of the Revised Code of Washington and the general condition requiring he not commit another federal, state, or local crime; and

6. Possession of Social Security numbers without prior approval of the probation officer on or before August 30, 2006, in violation of the special condition requiring that he not obtain or possess any driver's license, Social Security number, birth certificate, passport, or other form of identification in any name other than his true legal name, without prior written approval of the probation office.

Defendant was advised in full as to those charges and as to his constitutional rights.

Defendant has advised the Court that he will admit the alleged violations 1, 2, 5 and 6, and plaintiff has advised that the Government will withdraw alleged violations 3 and 4. (Dkt. 53.)

Following questioning by the undersigned, the Court finds that violations 1, 2, 5, and 6 are established. I therefore recommend the Court find defendant violated his supervised release as alleged in counts 1, 2, 5, and 6. A final hearing regarding revocation of supervised release has been set before the Honorable Ricardo S. Martinez for August 28, 2007 at 10:30 am.

01 Pending a final determination by Judge Martinez, defendant has been remanded to custody.

02 DATED this 17th day of July, 2007.

03 s/ Philip K. Sweigert  
04 United States Magistrate Judge

05  
06 cc: District Judge: Honorable Ricardo S. Martinez  
AUSA: Andrew C. Friedman  
07 Defendant's attorney: Timothy S. McGarry  
08 Probation officer: Michael J. Larson  
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